

## STATEMENT OF PROBABLE CAUSE

On January 14, 2013 at approximately 4:41 PM, a 911 call was received by the Cambridge Police reporting that a one-year-old baby was not waking up and possibly seizing. Police, Fire and ProAmbulance responded to 34 Ash Street, Unit 203, Cambridge. The paramedics found the baby, who was later identified as Rehma Sabir (DOB 1/14/12), breathing but unconscious and flexing only to painful stimuli. During transport, she had brief 4-5 second periods of apnea that resolved with painful arousal. She also had short periods of sinus pause, each lasting approximately 1 second with multiple periods per minute. Rehma was transported to Children's Hospital, Boston, where diagnostic tests and studies were performed and life-saving interventions were attempted; however, on January 16, 2013 at 4:34 PM, Rehma was pronounced brain dead.

The tests and studies performed at Children's revealed that Rehma suffered from subdural hemorrhaging, subarachnoid hemorrhaging, massive brain swelling, bilateral and multi-layered retinal hemorrhages, and restricted diffusion of the brain. Additionally, a skeletal survey revealed that she had the following healing fractures: vertebral compression fractures of T5-10 and possibly T11-12 as well as long bone fractures to her left ulna, left tibia, and left fibula. The fractures appeared to be 2 weeks to 2 months old on initial impression. The head injuries, however, were acute.

During the course of the investigation, it was learned that Rehma was born full-term following a normal pregnancy. Upon discharge from the birth hospital, she lived with her mother, [REDACTED], and father, [REDACTED] in the 34 Ash Street apartment. For the last six months, she was cared for by a nanny, Aisling McCarthy Brady (DOB 7/26/78), [hereinafter Brady] while her parents worked.

On Monday, January 14, 2013, [REDACTED] left the home around 7:30 AM to take his in-laws to the airport. He then went to work. [REDACTED] woke around 7:30 AM. Brady arrived around 7:50 AM. [REDACTED] woke up Rehma around 8:15 AM. Brady described Rehma as "cranky as usual." [REDACTED] held Rehma in her lap while she and Brady fed her blueberry oatmeal. [REDACTED] left the apartment and walked downstairs, but returned when she realized that Brady had inadvertently brought a neighbor's newspaper upstairs. When she got to the apartment Rehma was crying. [REDACTED] then left for work sometime shortly before 9:30 AM and walked to the T-station where she purchased a Charlie card and then called her husband, [REDACTED]. Phone records show that call was made at 9:37 AM.

Brady was interviewed twice, by me and State Police Trooper Anthony DeLucia. According to Brady, after [REDACTED] left to work, she and Rehma played tea cups and trains for approximately 25-30 minutes. Rehma was sticking her finger in the cup and appeared to be her usual self. Around 10:20 AM, Rehma began to get "whiny" so she placed her in her crib for a nap. Around 12:00 PM, [REDACTED] and [REDACTED] arrived at the apartment. They spoke with Brady and, on the baby monitor, they observed Rehma sleeping, but they did not go into the bedroom. While [REDACTED] were in the apartment, around 12:20-12:30 PM, [REDACTED] arrived with her seven-month-old [REDACTED]. She stayed a few minutes then left the

home. [REDACTED] who "nanny shared" with Rehma, stayed. The [REDACTED] left the apartment for lunch around 12:50 PM as Rehma had not awoken and, according to Brady, likely would sleep for another hour.

It should be noted that in her first interview Brady reported that the second baby did not arrive until after she had fed Rehma lunch, but in her second interview reported the time line set forth in the previous paragraph. [REDACTED] were all separately interviewed and each reported that [REDACTED] were at the apartment when [REDACTED] and her son arrived there. Neither [REDACTED] nor [REDACTED] went in the baby's bedroom at that time.

In her second interview, Brady reported that around 1:00 PM, while playing with [REDACTED] she heard Rehma stirring and looked at the baby monitor and observed Rehma sitting up with her eyes open. She then put [REDACTED] down for a nap in the spare bedroom, i.e. not Rehma's bedroom.

In both interviews, Brady described the same sequence of events at lunch. Upon realizing Rehma was awake, Brady went into the room and then took Rehma out of the crib and sang to her. Rehma appeared "happy" and making normal eye contact. Brady placed Rehma in her highchair to eat lunch. Brady described Rehma as a "fussy eater" who sometimes held food in her mouth for up to an hour. On this day, Rehma ate two to three spoons of potato and eggs. She then was given a bottle, which she held on her own, and she drank 2-3 oz. Brady went into the kitchen and got herself a soda and FiberOne bar. When she returned seconds later, Rehma was "slouched" in her chair with her eyes half-opened. According to Brady, she believed Rehma was tired so she placed her back in her crib.

Brady then used the laptop computer to go onto Face book. After checking on the sleeping babies, she left the apartment for 5 minutes to do laundry in the basement of the building. Around 2:30-2:45 PM, [REDACTED] awoke. She fed [REDACTED] and began playing with him. Around 3:45 PM, [REDACTED] called Brady to check in. She told him that Rehma had napped from 10-1 and was currently sleeping. [REDACTED] then returned to the apartment to pick up [REDACTED]. According to [REDACTED], this was just before 4:15 PM. Rehma was still sleeping at that time and Brady was a little concerned that she was still napping. [REDACTED] did not go into the bedroom. While [REDACTED] was still present, [REDACTED] returned from lunch.

Brady reported that she then went into the bedroom and turned on lights, turned up the music, and turned off the noise machine in an effort to get Rehma to wake on her own. She noticed that Rehma was grinding her teeth, which was not something she had seen before. She spoke briefly with [REDACTED] about the afternoon. She and [REDACTED] then went to get Rehma up. When they entered the room, Brady noticed that Rehma was clenching her fists and her arms and legs were stiff. She picked Rehma up and she appeared limp. [REDACTED] took Rehma and brought her to the living room. Brady got a wet cloth and placed it on Rehma's head. [REDACTED] tried to call [REDACTED], but was disconnected. He called back and told them to call 911. At this same time, [REDACTED] returned home and was buzzed into the apartment. She was met by

Brady at the stairwell landing and was told that Rehma was not waking up. She called 911.

[REDACTED] lives at [REDACTED] one floor [REDACTED] the baby's apartment. On Monday, January 14, 2013, she was doing laundry which caused her to walk down the back stairs to the laundry room and past the kitchen door of the baby's apartment. By 8:36 a.m. she could hear the baby crying inside. The crying continued and at around 9:30 a.m. the crying changed to extreme crying. [REDACTED] noted the time and thereafter walked downstairs and knocked on the front door to the apartment for a minute and a half, timing the knocks and then pounds on the door in between the baby's gasping so it would be heard by someone inside. Her knocks went unanswered and she went back upstairs. From her apartment [REDACTED] heard the baby cry for ten more minutes. It started to slow and settle down before stopping completely. She did not hear the baby after 10:00 a.m. She left the apartment to run errands close to 2:00 PM and returned home at around 4:30 PM. [REDACTED] was home when the fire truck responded.

During the investigation Trooper DeLucia and I, with the consent of the parents, went into the apartment to photograph the premises on January 15, 2013. On January 15, 2013, we noted the wall directly next to the changing table had a piece of drywall/plaster missing and the corresponding remnants were on the floor. The location of the missing drywall was consistent with it being damaged by forceful contact with the corner of the changing table. [REDACTED] told us that that damage was not there earlier and they did not know how it happened. We returned to the house on January 17, 2013, with a chemist from the Massachusetts State Police Crime Laboratory with the consent of the parents. Observed during that search were baby wipes, found discarded in the "Diaper Genie" next to the changing table, with red-brown stains that tested positive in the screening test for blood as well as a blanket and pillow in the crib in the same room with red-brown stains that tested positive in the screening test for blood. [REDACTED] did not put them there and did not know how or why they were found there.

Dr. Katherine Lindstrom conducted an autopsy on January 19, 2013. Preliminary findings of trauma from gross exam include: Bruises to the top of and behind Rehma's right ear and on her buttocks. Multiple anterior and superior subscalpular bruises, which were not evident on external exam. Cerebral edema. Subdural hemorrhaging on the brain and spinal cord. Subarachnoid hemorrhaging on the brain. Optic nerve sheath hemorrhaging. The cause and manner of Rehma Sabir's death are pending further study, including neuropathology, ophthalmologic pathology, and skeletal pathology exams.

Dr. Alice Newton, the Medical Director of Children's Child Protection Team, diagnosed Rehma as a victim of abusive head trauma given the constellation of injuries and the absence of a history of major trauma such as a high impact motor vehicle collision. Abusive head trauma includes injuries caused by violent shaking as well as impact to the head either by directly striking the head or causing the head to strike another object or surface. Symptoms experienced by severely brain injured children include a decrease in alertness, lethargy, an inability to lift the head, rigidity or posturing, and frequently seizures. In Dr. Newton's opinion, in this case, there is no other medical explanation for Rehma's head injuries or death. Dr Newton opined that Rehma would

not have appeared "normal" after the infliction of the injuries. Specifically, she would not have been able to track people with her eyes, sit on her own, play with toys, hold a bottle, drink a bottle, or eat food.

Based on my training and experience and conversations with the medical team treating and consulting on Rehma's case, I believe I have probable cause to believe that Aisling McCarthy Brady committed the crime of assault and battery on a child causing substantial bodily injury, G.L. c. 265, s. 13J, on January 14, 2013. According to all witness interviews, including those of Brady herself, Brady had sole custody of and contact with Rehma Sabir after 9:30 AM until Rehma was found seizing in her crib at 4:30 PM. Based on my interviews of [REDACTED] and Aisling Brady, Rehma Sabir was sitting on her own, feeding, and playing at the time Nada left the home that morning. By Ms. Brady's own account, Rehma continued to play, eat, track her with her eyes and appear otherwise happy and normal at least until the 1:30 feeding. Based on this reported history, the fatal injuries were inflicted sometime during or after this feeding and prior to finding Rehma seizing in her crib at 4:30 PM.